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June 1, 2004

**VIA FACSIMILE & US MAIL**

Diane O'Quinn-Williams, Director  
Miami-Dade County  
Department of Planning & Zoning  
111 NW First Street, 11<sup>th</sup> Floor  
Miami, Florida 33128

**Re: Acropolis Realty, LLC – Public Hearing No. 01-398**

Dear Ms. O'Quinn-Williams:

Please accept this correspondence as a Third Amended Letter of Intent, submitted in connection with the above captioned, public hearing application (the "Application"), which is currently pending as an appeal before the Miami-Dade County Board of County Commissioners (the "Board"). The purpose of this Third Amended Letter of Intent is to modify the Application to add the following request: District Boundary Change from RU-5A & BU-1 to RU-5A.

This amendment to the Application is hereby made by Acropolis Realty, LLC (the "Applicant") in order to provide another alternative to the Board as it considers the appeal of the Application. Currently, the Application would only permit a rezoning from RU-5A & BU-1 to Office Park District ("OPD"); however, while the Applicant intends to demonstrate that OPD development is by far the most desirable option for redevelopment of the Property, it has become apparent (as a result of discussions with certain property owners in the area) that the Board should have the full spectrum of options properly before it for consideration. Hence, the RU-5A, District Boundary Change requested herein.

Again, this modification to the Application should not be construed as the Applicant's expression of a newfound preference to deviate from the current, "OPD" Application and site plan. To the contrary, the Applicant intends to demonstrate vis-à-vis a comparison of OPD development options and RU-5A development options, that RU-5A is a much less efficient use of this medical office property located adjacent to the Baptist Hospital campus - an area where the existing, as well as future, population is grossly underserved with adequate, medical office facilities.

Ms. Diane O'Quinn-Williams

June 1, 2004

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That is to say, while the RU-5A zoning classification, in decades past, may have been an appropriate zoning for the Property and surrounding area, today's conditions – a dwindling supply of land, significantly increased land values, an aging, as well as expanding, population – require the type of office product which can only be provided by the innovative and flexible design qualities afforded by the OPD classification.

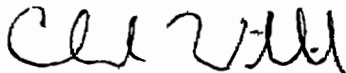
For example, OPD allows vertical development, structure parking and increased open space and landscaping – all preferred smart-growth, land use and design features which are unattainable under RU-5A zoning regulations.

Therefore, please accept this as the Applicant's request that the Application be amended to include the addition of the RU-5A District Boundary Change request memorialized herein. No other amendments, modifications or deletions are intended or requested by the Applicant. Further, please be advised that the appeal of the Application is currently scheduled to be heard by the Board on June 10, 2004. At this June 10<sup>th</sup> hearing, the Applicant shall request a deferral, with leave to amend the Application, in order to allow for the readvertising of same to include the RU-5A request memorialized herein.

If you have any questions, comments or need more information with respect to this matter, please do not hesitate to contact me.

Yours truly,

CARLOS WILLIARD & FLANAGAN, P.A.



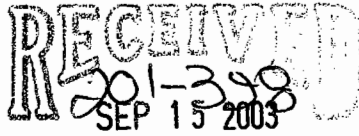
Chad Williard, Esq.

cc: Nancy Rubin, Esq. (via facsimile)  
Ms. Judith Rawls (via facsimile)

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ZONING HEARINGS SECTION  
MIAMI-DADE PLANNING AND ZONING DEPT.

BY 

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September 12, 2003

**VIA HAND DELIVERY**

Ms. Diane O'Quinn Williams, Director  
Miami-Dade County  
Department of Planning & Zoning  
111 N.W. 1<sup>st</sup> Street, 11<sup>th</sup> Floor  
Miami, FL 33128

**RE: Acropolis Realty LLC - Public Hearing No. 01-398**

Dear Ms. O'Quinn Williams:

Please accept this correspondence as a Second Amended Letter of Intent, submitted in connection with the above-captioned, Public Hearing Application (the "Application"). The purpose of this Second Amended Letter of Intent is to modify the Application's zoning request to add Alternative Site Development Option ("ASDO") requests and to submit a revised site plan in connection with same.

On October 9, 2002, the First Amended Letter of Intent was submitted in order to modify the Application to request a District Boundary Change from RU-5A and BU-1 to Office Park District ("OPD"). This will confirm that the request to rezone the Property to OPD remains part of the Application.

The Application was originally filed in 2001; however, due to the decision rendered by the Third District Court of Appeal in *Miami Dade County v. Omnipoint Holdings, Inc.* ("Omnipoint"), the Application has been on hold while the County amended the OPD ordinance in order to conform with the *Omnipoint* decision. Finally, on September 9, 2003, the Miami Dade County Board of County Commissioners adopted the necessary amendments to the OPD ordinance such that the Applicant may request the necessary ASDOs, set forth below, for the Application.

In particular, the Applicant must request two (2) ASDOs: an alternative floor area ratio ("FAR") for the buildings on the subject property (the "Property"); and an alternative lot area for the Property. First, the Applicant requests an alternative FAR to permit 10% more FAR than would otherwise be permitted in the OPD district. In addition to other merits which justify this increased FAR (such as the strong and aesthetically pleasing architectural design of the

buildings proposed for the Property – described in more detail in the First Amended Letter of Intent, which is herein incorporated by reference), this request meets the standards for approving such an ASDO, as set forth in Section 33-311(21)(e). Specifically, the total FAR requested: is not more than 10% greater than that permitted in the OPD district; will not result in the destruction or removal of mature trees with a diameter at breast height of greater than ten (10) inches, unless otherwise permitted by Section 24-60(4)(f) of the Code, or such trees are to be located in a manner that preserves the aesthetic and shade qualities of the Property; will not result in principal buildings or accessory buildings with an architectural design, scale, mass, or building materials that are not aesthetically harmonious with that of other existing or proposed structures in the immediate vicinity (the Property is adjacent to the Baptist Hospital campus which has buildings, of similar aesthetic style and look, greater in height and stories than the building proposed by the Application's site plan); and, will not result in an obvious departure from the aesthetic character in the immediate vicinity (again, given the Property's proximity to Baptist Hospital, the proposed development will actually compliment and enhance the aesthetic character of the area rather than detract from it).

Additionally, the Applicant now requests a lot area ASDO, to permit a lot area of 2.94 acres, where three (3) acres is otherwise required by OPD regulations. As with the above-mentioned, FAR ASDO, this lot area ASDO meets the standards for granting same as set forth in 33-311(21)(g). First, the proposed lot area shall permit the redevelopment of structures on the Property where such structures would not otherwise be permitted by the OPD regulations due to the size of the parcel proposed for this alternative development. Furthermore, the proposed lot area request meets the remaining criteria for the granting of such an ASDO: the Property is under lawful, separate ownership from any contiguous property; the proposed alternative development will not result in further subdivision of land; the size and dimensions of the Property are sufficient to provide all setbacks required by the underlying, OPD regulations; the area of the Property is not less than 75% of the minimum lot area required by OPD (in fact, at 2.94 acres, the Property contains 98% of the 3-acre lot area otherwise required by OPD); the proposed alternative development does not result in an obvious departure from the aesthetic character of the immediate vicinity (to the contrary the proposed alternative development represents a vast improvement in the character of the immediate vicinity due to the fact that the redevelopment proposed by the Application will remove aging, deteriorating, office buildings which, in the coming years, would become a blight on the area); and, the frontage dimension of the Property is not less than 75% of the minimum frontage required by the OPD regulations (in fact, a frontage ASDO is neither required nor requested in this Application).

In addition to the two ASDOs requested herein, the Applicant also hereby requests that the conditions of the prior zoning resolution, which rezoned the east 185 feet of the Property to BU-1 (Resolution No. Z-100-83; the "Resolution"), be deleted along with a companion, Declaration of Restrictions (the "Declaration") - copies of which are attached hereto. This deletion request is made as part of this Application due to the fact that: the uses approved pursuant to the Resolution (sandwich shop and commercial bank), are permitted as a matter of right by the OPD request made elsewhere in this Application; and, the site plan approved by the Resolution is to be replaced by the site plan proposed as part of the Application. With respect to this request to delete the conditions of the prior Resolution and Declaration, said request satisfies the requirements of Section 33-311(VI), to wit: the Property would satisfy all

current requirements and standards of the OPD district without the Resolution conditions or Declaration previously approved for the Property and the Resolution/Declaration deletion is sought in connection with said, rezoning to the OPD district. Also, pursuant to Section 33-311(VI)(C), approval of the requested deletion of the Resolution conditions and Declaration would not result in a use of the Property: which would have significant adverse impacts on the value of properties in the immediate vicinity; with design architecture, or layout and orientation of buildings, open space or amenities that is inconsistent with or deleterious to the aesthetic character of the immediate vicinity; which would result in a material change in the density, intensity or use of the Property such that it differs from the density, intensity or use of the existing or approved development in the immediate vicinity that would represent an obvious and significant departure from the established development pattern in the immediate vicinity which has a deleterious effect on the community character; which would result in a substantial degradation of localized traffic patterns or substantial adverse impact on the roadway network; which would result in unmitigated demands on potable water, sanitary sewer or stormwater treatment systems which exceed the capacity of those systems; and, which would represent a continued and substantial risk to human life or safety or to the environment, or a nuisance.

In addition to the technical requests and justifications set forth in this Second Amended Letter of Intent - necessitated by the ordinances adopted to address "*Omnipoint*" concerns - the Applicant asks that the overriding goal of the Application not be overlooked or in any way diminished: the Application, if approved, will allow the Property to be redeveloped in such a way as to remove aging and unsightly buildings and to replace them with a well-designed, aesthetically pleasing, state of the art, medical office park which is heavily landscaped and would result in tremendous enhancement of not only the Property, but the surrounding area as well. Moreover, the proposed redevelopment will eliminate the current parking shortage by replacing the existing, deficient surface parking with a parking deck which not only "hides" the majority of the vehicles parked on the Property, but also provides excess parking over and above what is otherwise required by the OPD and medical office parking regulations.


While all the requested merits, and justifications for approval of this Application stated in the First Amended Letter of Intent remain, and are hereby incorporated by reference, the Applicant reaffirms its intent to develop up to fifteen percent (15%) of the gross interior square footage with the commercial accessory uses permitted in the OPD district (notwithstanding the fact that such commercial uses are not expressly labeled on the site plan's floor plans). Also, despite the significant amount of time which has passed since this Application was filed in 2001, it should not be forgotten that the Application has worked diligently with Planning & Zoning and Public Works staff to create the best possible site plan for the redevelopment of the Property. Also, due to the significant amount of time which the Applicant has been delayed – through no fault of its own – the Applicant has experienced extreme, financial hardship. Therefore, it is strenuously requested that the Application and site plan be processed with all possible speed and efficiency such that the Application may be advertised and scheduled for hearing before Community Zoning Appeals Board No. 12 at its November 18, 2003, zoning hearing.

Diane O'Quinn Williams  
September 12, 2003  
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If you should have any questions, comments or any additional information in order to expedite the processing and scheduling of the Application, please do not hesitate to contact me.

Yours truly,

CARLOS WILLIARD & FLANAGAN, P.A.

A handwritten signature in black ink, appearing to read "W. Chad Williard". The signature is stylized with a large "W" and "C" and a trailing flourish.

W. Chad Williard, Esq.

enclosure

CARLOS WILLIARD & FLANAGAN, P.A.

ATTORNEYS AT LAW

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JEFFREY M. FLANAGAN



ZONING HEARINGS SECTION  
MIAMI-DADE PLANNING AND ZONING DEPT.

BY 

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October 9, 2002

Diane O'Quinn Williams, Director  
Miami-Dade County  
Department of Planning and Zoning  
111 N.W. 1<sup>st</sup> Street, 11<sup>th</sup> Floor  
Miami, FL 33128

**Re: Acropolis Realty, LLC – Public Hearing No. 01-398**

Dear Ms. O'Quinn Williams:

Please accept this correspondence as an Amended Letter of Intent submitted in connection with the above referenced Public Hearing Application (the "Application"). The purpose of this Amended Letter of Intent is to modify the Application's zoning request and to submit a revised site plan in connection with same.

First, the recent decision rendered by the Third District Court of Appeal in *Miami-Dade County v. Omnipoint Holdings, Inc.* ("Omnipoint"), among other things, invalidated Miami-Dade County's standards for "Non-Use Variance" requests. In light of the fact that Miami-Dade County has not yet passed and adopted ordinances providing new standards for Non-Use Variances, the Applicant desires to avoid further delay in the processing of the Application by amending the zoning request in such a manner as to permit the Application to proceed without further, "Omnipoint – related," postponement. Therefore, this will confirm that the Applicant hereby deletes all previous requests and replaces them with the following: ~~zoning district boundary change from RU-5/A and BU-1~~ (plus other zoning district classifications, if any, for the adjacent rights of way to the north and west, which are being incorporated into the subject property via a road closure petition currently pending with Miami-Dade County, ~~to Office Park District (OPD)~~ for the purpose of redeveloping the Property with a state of the art medical office park.

In addition to "Omnipoint" – reasons for amending the zoning request, the Applicant now desires to rezone the Property to OPD because this district provides the necessary flexibility to permit the type of innovative, heavily landscaped, aesthetically pleasing office park development proposed for the Property. It should be noted that this revised site plan (which represents a vast improvement over the deteriorating, unattractive medical office complex which currently exists on the Property) is the result of many meetings with Planning and Zoning Department Staff (the "Staff") and represents the Applicant's best efforts to incorporate Staff's design recommendations. The resulting

Ms. Diane O'Quinn . . . . .ams

October 9, 2002

Page 2 of 2

site plan submitted herewith: provides excess landscaping; proposes buildings which are six stories, as opposed to eight stories which are otherwise permitted in the OPD; remedies the current parking shortage by providing significantly more parking spaces than that required by Code, but doing so in such a way as to effectively "hide" the parking (thus removing the current, undesirable, "sea of asphalt," parking lots from the Property); and makes the most efficient use of the Property by aggregating the structures in such a way as to efficiently provide much needed medical office space to the area in a manner which significantly upgrades the Property.

With respect to the site plan submitted herewith, please note the following: the legal description is provided on the survey which is included within the site plan submittal materials; the landscape architect's Landscape Code Compliance Affidavit is incorporated into the Landscape Plan; and, while the uses are not expressly labeled on the site plan's floor plans, this will confirm the Applicant's intent to develop up to 15% of the gross interior square footage with commercial uses accessory to the principal use, as permitted in the OPD (See note on the site plan zoning legend).

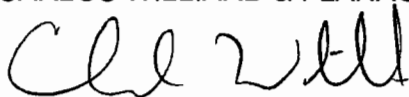
The Applicant has worked diligently with Staff to create the best redevelopment possible for the Property: a well designed, heavily landscaped, medical office park which is compatible with the surrounding area and will serve and promote a public benefit. Moreover, the OPD zoning request is consistent with the CDMP's, "Office/Residential," land use designation for the Property.

Accordingly, for all the reasons set forth herein, the Applicant respectfully urges you to recommend approval of the Application in its entirety.

Thank you for your consideration.

Yours truly,

CARLOS WILLIARD & FLANAGAN, P.A.

A handwritten signature in black ink, appearing to read "W. Chad Williard". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

W. Chad Williard

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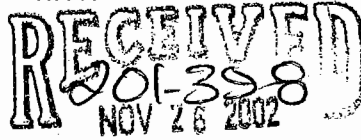
Enclosure

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November 26, 2002

ZONING HEARINGS DIV.  
MIAMI-DADE PLANNING AND ZONING DEPT.  
BY [Signature]

**Via Facsimile 305-372-6096 &  
Via U.S. Mail**

Ms. Donna Jacoby  
Miami-Dade County  
Department of Planning and Zoning  
111 NW 1<sup>st</sup> Street, 11<sup>th</sup> Floor  
Miami, FL 33128-1972

**Re: Acropolis Realty, LLC – Miami-Dade County Public Hearing No. 01-398  
(the “Application”)**

Dear Donna:

You may recall that approximately three weeks ago we had a telephone conversation wherein you informed me of issues to be resolved and additional information to be provided before the Application (and its companion site plan) could be processed and distributed to the various departments for review. Since that time I have had an opportunity to research the issues and speak with the site plan architect and now offer the following responses:

1. Lot Coverage Data – Please refer to Sheet No. “A-1,” of the site plan. The zoning legend located on this page includes a line item indicating that the total lot coverage of the buildings proposed for the property is 42.85%. If you need additional clarification or information with respect to this item, I recommend that you contact the architect, Elahe Sareh (305-442-4200), directly.
2. Zoning Legend for Each Phase of Development – According to the architect, an attempt was made to break down the data for each of the two (2) phases/buildings. If additional information or reconfiguration of this information is needed, I would once again recommend that you contact architect Elahe Sareh.
3. Required Setbacks to the North and West Property Lines - You may recall that you indicated that the Zoning Code requires a 30' setback where the subject property abuts the RU-1 zoned, Baptist Hospital property to the north and west. However, upon further review of the relevant Code Section (Section 33-284.36), I respectfully disagree with this interpretation. Specifically, the Code states “all structures shall be setback a minimum of 30' from property lines abutting any residential zoning district in which only single family, duplex or townhouse uses are permitted.”

In this case, while the Baptist Hospital property happens to be zoned RU-1, clearly this particular RU-1 zoning district is not one where “only single family, duplex or townhouse uses are permitted.” Therefore, this 30' setback requirement does not apply.

4. Non Use Variance from the requirement that "where a project is designed and planned to be developed in sections... [that] section shall comply with minimum lot width and area requirements." (Section 33-284.31). In the instant case, your interpretation is that due to the fact that the project is going to be developed in two phases (i.e., the two buildings will not be constructed simultaneously), each "phase" must meet the minimum lot area requirement of three (3) acres or obtain a variance from this requirement. Again, after further review of this issue, I respectfully disagree with this interpretation.

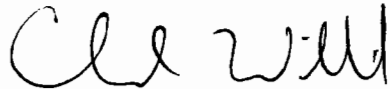
The policy behind this Code requirement is to prohibit projects developed in sections from being placed under separate ownership and separate mortgages. In this case, the property owner is willing to proffer a unity of title, a covenant in lieu of unity of title, or some other legally sufficient document, to confirm that the property will not be placed under separate ownerships and separate mortgages. Submittal of such documentation will satisfy the spirit and intent of this Code Section (Section 33-284.31), thereby alleviating the need to obtain a non use variance.

As you know, any non use variances associated with this Application will make it impossible for the Applicant to move forward to public hearing in the foreseeable future. In this case, such delay would place unduly burdensome financial hardships on the Applicant. I believe the responses provided herein adequately address the issues previously raised, such that the Application can proceed to public hearing with the single request to rezone the property to Office Park District.

If you wish to discuss these issues further, please let me know. Otherwise, please distribute the site plan to the various reviewing departments or, if more information is needed, please request such information from the site plan architect or me as soon as possible so that the Application is not delayed any further. I appreciate your continued cooperation and consideration with respect to the Application.

Yours truly,

CARLOS WILLIARD & FLANAGAN, P.A.



Chad Williard

cc: Ms. Elahe Sareh (via facsimile)  
Dr. Pablo Delgado (via facsimile)